Docket No.: 17065/004001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
James Alfred Thompson

Confirmation No.: 8553

Application No.: 10/656,687

Art Unit: 2423

Filed: September 5, 2003

Examiner: J. O. Mendoza

For: CABLE NETWORK ACCESS CONTROL SOLUTION

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on December 1, 2010, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

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TABLE OF AUTHORITIES

Cases

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I. Real Party of Interest

The real party of interest for the referenced application is Remote Security Systems, LLC. An Assignment transferring all interest in the referenced application from the inventors to Remote Security Systems, LLC was filed with the USPTO on September 5, 2003. The Assignment is recorded at Reel 014476, Frame 0115.

II. Related Appeals and Interferences

To the best of the knowledge of the Appellant and Appellant's legal representative, there are no other appeals or interferences that will directly affect, be affected by, or have a bearing on the decision of the Board of Patent Appeals and Interferences ("the Board") in this appeal.

III. Status of Claims

U.S. Patent Application Serial No. 10/656,687 ("the '687 Application") was filed on September 5, 2003. As filed, the '687 Application included claims 1-39. In a reply under 37 C.F.R. § 1.111 dated October 20, 2008, claims 2 and 20 were cancelled without prejudice or disclaimer. Further, in a reply under 37 C.F.R. § 1.114 dated March 24, 2009, claims 16, 17, 28, and 29 were cancelled without prejudice or disclaimer. Accordingly, claims 1, 3-15, 18-19, 21-27, and 30-39 are pending in the '687 Application. Claims 1, 19, 30, and 39 are independent. The remaining claims depend directly from claims 1, 19, and 30.

All the pending claims were rejected in an Office Action dated September 2, 2010 ("Office Action").

Claims 1, 3-15, 18-19, 21-27, and 30-39 are on appeal.

IV. Status of Amendments

All of the amendments have been entered and considered by the Examiner. No amendments have been filed subsequent to the Office Action. The pending claims of record are presented in the Claims Appendix.

V. Summary of Claimed Subject Matter

The following discussion summarizes the content of the claimed subject matter. The references to the originally-filed Specification referenced below should not be construed as the only locations in the Specification which support or discuss the respective limitation.

Independent claim 1 relates to a cable distribution box. *See, e.g.,* Specification, Figure 3; paragraph [0020]. The cable distribution box includes an authentication device configured to obtain authentication information from an authentication medium. *See, e.g.,* Specification, Figure 3; paragraph [0026]. The cable distribution box also includes an electronic access control system configured to be operatively connected to an access administration system over at least a portion of a cable network infrastructure. *See, e.g.,* Specification, Figure 3; paragraphs [0021] and [0025]. Further, the electronic access control system is configured to grant access to the cable distribution box upon receiving verification of the authentication information. *See, e.g.,* Specification, Figure 3; paragraphs [0024] and [0030]. The cable distribution box also includes a lock operatively connected to the electronic access control system. *See, e.g.,* Specification, paragraphs [0021] and [0022]. Further, the lock is configured to receive a signal from the electronic access control system to electronically unlock the cable distribution box when access to the cable distribution box is granted. *See, e.g.,* Specification, paragraph [0021]. The authentication device, the electronic access control system, and the lock are configured to be solely powered using current obtained from a

coaxial cable line operatively connected to the cable distribution box. *See, e.g.,* Specification, paragraph [0021].

Independent claim 19 relates to a cable distribution box. *See, e.g.,* Specification, Figure 3; paragraph [0020]. The cable distribution box includes an authentication device configured to obtain authentication information from an authentication medium. *See, e.g.,* Specification, Figure 3; paragraph [0026]. The cable distribution box also includes a memory operatively connected to the authentication device comprising verification information and work log data. *See, e.g.,* Specification, paragraph [0025]. The cable distribution box also includes an electronic access control system operatively connected to the authentication device and the memory. *See, e.g.,* Specification, Figure 3; paragraphs [0021] and [0025]. Further, the electronic access control system is configured to grant access to the cable distribution box based on the verification information and the authentication information. *See, e.g.,* Specification, Figure 3; paragraphs [0024] and [0030]. The cable distribution box also includes a lock operatively connected to the electronic access control system. *See, e.g.,* Specification, paragraphs [0021] and [0022]. Further, the lock is configured to receive a signal from the electronic access control system to electronically unlock the cable distribution box when access to the cable distribution box is granted. *See, e.g.,* Specification, paragraph [0021]. The authentication device, the memory, the electronic access control system, and the lock are configured to be solely powered using current obtained from a coaxial cable line operatively connected to the cable distribution box. *See, e.g.,* Specification, paragraph [0021].

Independent claim 30 relates to a method for accessing a cable distribution box. *See, e.g.,* Specification, Figure 4; paragraph [0032]. The method involves obtaining authentication information from an authentication medium. *See, e.g.,* Specification, Figure 4; paragraph [0032].

The method also involves sending an access request over at least a portion of a cable network infrastructure to an access administration system using current obtained solely from a coaxial cable line operatively connected to the cable distribution box. *See, e.g.,* Specification, Figure 4; paragraph [0032]. Further, the access request comprises the authentication information. *See, e.g.,* Specification, paragraph [0032]. The method also involves verifying the access request by the access administration system. *See, e.g.,* Specification, Figure 4; paragraph [0033]. The method also involves generating a work log associated with the access request. *See, e.g.,* Specification, Figure 4; paragraph [0034]. The method also involves granting access to the cable distribution box when the access request is verified. *See, e.g.,* Specification, Figure 4; paragraphs [0033]. Further, granting access to the cable distribution box comprises electronically unlocking the cable distribution box using current obtained solely from the coaxial cable line. *See, e.g.,* Specification, Figure 4; paragraphs [0021] and [0033].

Independent claim 39 relates to an apparatus for accessing a cable distribution box. *See, e.g.,* Specification, Figure 3; paragraph [0021]. The apparatus includes means for obtaining authentication information from an authentication medium. *See, e.g.,* Specification, Figure 3; paragraph [0026]. The apparatus also includes means for sending an access request over at least a portion of a cable network infrastructure to an access administration system using current solely obtained from a coaxial cable line operatively connected to the cable distribution box. *See, e.g.,* Specification, Figure 3; paragraphs [0023] and [0024]. Further, the access request comprises the authentication information. *See, e.g.,* Specification, Figure 3; paragraphs [0024] and [0030]. The apparatus also includes means for verifying the access request. *See, e.g.,* Specification, paragraph [0029]. The apparatus also includes means for generating a work log associated with the access

request. *See, e.g.,* Specification, paragraph [0025]. The apparatus also includes means for electronically unlocking the cable distribution box when the access request is verified using current solely obtained from the coaxial cable line. *See, e.g.,* Specification, paragraphs [0021] and [0022].

VI. Grounds of Rejection to be Reviewed on Appeal

The present Appeal addresses the following grounds of rejection:

- Whether claims 1, 3-7, 9, 10, 12, 13, 15, 18, 30, 33, and 35-39 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2004/0128508 (hereinafter "Wheeler") in view of US Patent No. 4,502,609 (hereinafter "Christatos") further in view of U.S. Patent No. 7,111,318 (hereinafter "Vitale") further in view of U.S. Patent No. 6,785,908 (hereinafter "Kamiya").

- Whether claims 19, 21-23, and 25-26 are unpatentable under 35 U.S.C. §103(a) over Wheeler in view of Christatos further in view of Kamiya.

- Whether claim 8 is unpatentable under 35 U.S.C. §103(a) over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of U.S. Patent No. 6,472,973 (hereinafter "Harold").

- Whether claims 11, 24, 31, and 32 are unpatentable under 35 U.S.C. §103(a) over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of U.S. Patent Publication No. 2002/0147982 ("Naidoo").

- Whether claims 14, 27, and 34 are unpatentable under 35 U.S.C. §103(a) over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of U.S. Patent Publication No. 2004/0050930 ("Rowe").

VII. Argument

A. Claims 1, 3-7, 9, 10, 12, 13, 15, 18, 30, 33, and 35-39 are patentable over Wheeler in view of Christatos further in view of Vitale further in view of Kamiya

In this Appeal, Appellant argues that claims 1, 3-7, 9, 10, 12, 13, 15, 18, 30, 33, and 35-39 are patentable over Wheeler in view of Christatos further in view of Vitale further in view of Kamiya for at least the reasons given below. Independent claim 1 is representative of claims 3-7, 9, 10, 12, 13, 15, 18, 30, 33, and 35-39.

35 U.S.C. § 103 provides the statutory definition of obviousness. The framework for applying 35 U.S.C. § 103 was initially set out by the Supreme Court in *Graham v. John Deere Co.*, 86 S.Ct. 684 (1966). This framework was reaffirmed by the court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007). Based on the above framework, one rationale that may be used to support a conclusion of obviousness is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art. *See KSR*, 127 S.Ct. at 1739.

In addition, "[w]hile each case is different and must be decided on its own facts, the *Graham* factors, including secondary considerations when present, are the controlling inquiries in any obviousness analysis." MPEP § 2141. Secondary considerations that should be considered include long-felt but unsolved needs. *Id.* Further, evidence of long-felt but unsolved needs must be

considered in making a determination of the obviousness of the claimed invention. *See* MPEP § 716.01(a) (citing *Stratoflex, Inc. v. Aeroquip Corp*, 713 F.2d 1530, 1538, 218 USPQ 871, 879 (Fed. Cir. 1983)).

In the instant case, the Examiner, in articulating the analysis used to reject the claims under 35 U.S.C. §103, has used the above rationale to support a rejection of obviousness in view of Wheeler in view of Christatos further in view of Vitale further in view of Kamiya. *See* Office Action, pp. 2-24. Appellant asserts that the Examiner has failed to properly weigh the rebuttal evidence against the prima facie case of obviousness. As such, the Examiner has failed to satisfy the requirements of the aforementioned rationale and, thus, failed to establish a *prima facie* case of obviousness. Specifically, the Examiner has (i) failed to properly consider the probative value of the previously submitted declarations and (ii) failed to properly establish that the rebuttal evidence is insufficient. For at least these reasons, the Examiner's rejection should be reversed.

Declaration Evidence

Pursuant to MPEP §§ 716.04 and 2145, in order to establish a long-felt need and failure of others, the Appellant must show evidence of the following:

(i) "Establishing long-felt need requires objective evidence that an art recognized problem existed in the art for a long period of time without solution. [Accordingly], the need must have been a persistent one that was recognized by those of ordinary skill in the art. *In re Gershon*, 372 F.2d 535, 539, 152 USPQ 602, 605 (CCPA 1967)" MPEP § 716.04

(ii) The long-felt need must not have been satisfied by another before the invention by appellant.

(iii) The invention must in fact satisfy the long-felt need. *In re Cavanagh*, 436 F.2d 491, 168 USPQ 466 (CCPA 1971)[1].

In support of the Appellant's assertion of secondary considerations, the Appellant previously submitted four separate 37 C.F.R. § 1.132 Declarations: (a) Declaration of Robert Shugarman (hereinafter "Shugarman Declaration") on October 15, 2009, (b) Declaration of Robert V. Moel (hereinafter "Moel Declaration") on October 15, 2009, (c) Declaration of Terry Paul (hereinafter "Paul Declaration") on October 15, 2009, and (d) Declaration for James A. Wolsiffer (hereinafter "Wolsiffer Declaration") on July 9, 2010 (collectively referred to as "Prior Declarations"). The Prior Declarations have been entered and reviewed by the Examiner, as such, they are part of the file wrapper for the referenced application.

Robert Shugarman, Robert V. Moel, Terry Paul, and James A. Wolsiffer are prominent individuals (independent of the inventor) in the cable television industry with extensive knowledge about the Cable Television Infrastructure as well as issues dealing with Cable Theft in the multi-dwelling unit (MDU) environment. (*see* Shugarman Declaration, items 2-4; Moel Declaration, items 2-5; Paul Declaration, items 2-4; Wolsiffer Declaration, items 2-7).

Requirement (i)

As described below, Appellant provides the following evidence in support of requirement (i) listed above. Appellant asserts the Declarations establish that cable theft in the MDU environment

[1] There must be a nexus between the rebuttal evidence and the claimed invention, *i.e.*, objective evidence of nonobviousness must be attributable to the claimed invention. *See* MPEP § 2145.

has been a problem since at least the mid-1980s (*see* Shugarman Declaration, item 11; Moel Declaration, item 12; Paul Declaration, items 3 and 11; Wolsiffer Declaration, items 15, 16).

Specifically, Cable Theft in the MDU Environment has occurred and continues to occur in at least the following manner: (a) Legacy Cable Distribution Boxes were physically compromised by unauthorized parties breaking into the Legacy Cable Distribution Boxes. The unauthorized parties subsequently connected non-customers to enable them to receive cable service from the Legacy Cable Distribution Box; (b) Legacy Cable Distribution Boxes were left open by Cable Company Contractors and Employees and unauthorized parties subsequently connected non-customers to enable them to receive cable service from the Legacy Cable Distribution Box; (c) Keyed locks used to secure the Legacy Cable Distribution Boxes are easily duplicated (or readily available) and, accordingly, available for current and former Cable Company Contractors and Employees to access Legacy Cable Distribution Boxes and subsequently connected non-customers to enable them to receive cable service from the Legacy Cable Distribution Box. *See* Shugarman Declaration, item 11; Moel Declaration, item 12; Paul Declaration, items 12; Wolsiffer Declaration, item 16.

There have been numerous prior unsuccessful attempts to solve this problem over at least the last 15 years. *See* Wolsiffer Declaration, item 14. In particular, the approach to combating cable theft in the MDU Environment has not changed or been successfully improved in at least the last 15 years; instead the cable theft in the MDU Environment persisted until Appellant's product was deployed in the MDU Environment. *See* Shugarman Declaration, items 4-12; Moel Declaration, items 6-14; Paul Declaration, items 6-13; Wolsiffer Declaration, items 15, 16, 21.

In view of the above, the Appellant has satisfied requirement (i).

Requirement (ii)

As described below, Appellant provides the following evidence in support of requirement (ii) listed above. In particular, Appellant shows the long-felt need established in requirement (i) has not been satisfied by another before the invention by Appellant. The non-satisfaction of the long-felt need by another is evidenced by the continued cable theft (and revenue loss from interrupted service) in MDU environments in which the Appellant's invention is *not* deployed and the demand for the Appellant's RSS Cable Distribution Boxes to replace the previously installed Legacy Cable Distribution Boxes. *See* Shugarman Declaration, items 11, 13, and 15; Paul Declaration, items 11, 16, and 18; Wolsiffer Declaration, items 17, 19, and 21.

Furthermore, in considering whether improvements are significant enough to be considered for the purpose of secondary indicia, the court in *Newell* equated the "improvements" in the Ferguson patent at issue to be *de minims* when compared with the Corcoran prior art and commented that:

> The [Ferguson] invention ... rests upon exceedingly small and quite non-technical mechanical differences in a device which was old in the art. At the latest, those differences were rendered apparent in [1974] by the appearance of the [Corcoran shade material], and unsuccessful attempts to reach a solution to the problems confronting [Ferguson] made before that time became wholly irrelevant. *Newell Companies v. Kenney Mfg. Co.*, 864 F.2d 757, 768 (Fed. Cir. 1998).

In contrast, the Appellant's invention has at least the following additional capabilities over the prior art solutions: (i) providing functionality to remotely authorize access to the Cable Distribution Box; (ii) providing functionality to enable unlocking on the Cable Distribution Boxes after remote authorization has been granted; (iii) providing functionality to track access to the Cable Distribution Boxes using a work log, which may be remotely accessed; (iv) incorporating an internal locking

mechanism, which removes external failure points of the locking mechanism used to secure the RSS Cable Distribution Boxes; and (iv) configuring the Cable Distribution Boxes to be solely powered using power from the coaxial cable line. *See* Shugarman Declaration, items 14, 16; Moel Declaration, items 16, 17; Paul Declaration, items 17, 19; Wolsiffer Declaration, items 20, 22. Thus, the non-trivial improvements over the prior art render the rationale set forth in *Newell* inapplicable to the instant case.

In view of the above, the Appellant has satisfied requirement (ii).

Requirement (iii)

The claimed invention successfully addresseses cable theft in the MDU environment as follows:

(i) Providing a mechanism to remotely authorize access to the RSS Cable Distribution Box. This mechanism enables fine-grained control of who can access a particular RSS Cable Distribution Box including removing access to former Cable Company Employees and Contractors. (*See e.g.,* claims 1, 7, 8, 19, 21, 30, and 39)

(ii) Providing a mechanism to enable unlocking on the RSS Cable Distribution Boxes after remote authorization has been granted. (*See e.g.,* claims 1, 19, 30, 33, and 39)

(iii) Tracking access to the RSS Cable Distribution Boxes using a work log, which may be remotely accessed. (*See e.g.,* claims 10, 11-12, 19, 23, 24, 30, 31, and 39).

The success of the claimed invention is evidenced by the decrease in cable theft experienced by Cable Operators, which have deployed Cable Distribution Boxes embodying the claimed

invention. *See* Shugarman Declaration, items 13 and 15; Paul Declaration, items 16 and 18; Wolsiffer Declaration, item 21.

In view of the above, Appellant asserts that there are long felt but unsolved needs and failure of others, which render the pending claims non-obvious in view of the prior art.

The Examiner has failed to properly consider the probative value of the declarations

Appellant asserts that the Examiner has failed to properly consider the probative value of the Prior Declarations. The Examiner asserts that the Prior Declarations are insufficient because "the pertinent prior art references seek to solve the same problem as the current application. *See* Office Action, p. 2.

MPEP § 716.01(d) states that "[i]n assessing the probative value of an expert opinion, the examiner must consider the nature of the matter sought to be established, the strength of any opposing evidence, the interest of the expert in the outcome of the case, and the presence or absence of factual support for the expert's opinion. *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986)." A detailed discussion of the evidence supporting the Appellant's assertion of secondary considerations is found above and in the Prior Declarations.

However, the Examiner's analysis is completely silent with respect to the probative value of the evidence in the Prior Declarations. Specifically, the Examiner fails to consider the strength of any opposing evidence, the interest of the expert, and the presence or absence of factual support. Instead, the Examiner disregards the evidence presented in the Prior Declarations because the prior

art purportedly solves the same problem. In other words, the Examiner fails to properly weigh the evidence presented on both sides of the matter sought to be established by the Prior Declarations.

In view of the above, Appellant respectfully asserts that the Examiner has failed to properly consider the probative value of the evidence in the Prior Declarations as required by MPEP § 716.01(d).

The Examiner has failed to properly establish that the rebuttal evidence is insufficient

Appellant asserts that the Examiner has failed to properly establish that the rebuttal evidence is insufficient. The Examiner, in articulating the analysis used to reject the claims under 35 U.S.C. §103, asserts that the Prior Declarations are insufficient because "the pertinent prior art references seek to solve the same problem as the current application." Action, page 2. Specifically, the Examiner asserts that various locking mechanism disclosed in U.S. Patent No. 4,502,609 ("Christatos"), U.S. Patent No. 3,812,279 ("Voegeli"), and U.S. Patent No. 4,626,616 ("Masters") seek to solve the same problem as the present invention. The Examiner then concludes by asserting that "the existence of prior art references showing a solution to the same problem being solved by the current application is evidence that there is no long-felt need." Office Action, page 3.

MPEP § 2145 states that "Office personnel should not ... summarily dismiss [rebuttal evidence] as not compelling or insufficient. If the evidence is deemed insufficient to rebut the prima facie case of obviousness, Office personnel should specifically set forth the facts and reasoning that justify this conclusion."

As discussed above, the claimed invention has at least the following additional capabilities over the prior art solutions: (i) providing functionality to remotely authorize access to the Cable

Distribution Box; (ii) providing functionality to enable unlocking on the Cable Distribution Boxes after remote authorization has been granted; (iii) providing functionality to track access to the Cable Distribution Boxes using a work log, which may be remotely accessed; (iv) incorporating an internal locking mechanism, which removes external failure points of the locking mechanism used to secure the RSS Cable Distribution Boxes; and (iv) configuring the Cable Distribution Boxes to be solely powered using power from the coaxial cable line. *See* Shugarman Declaration, items 14, 16; Moel Declaration, items 16, 17; Paul Declaration, items 17, 19; Wolsiffer Declaration, items 20, 22. In other words, the Prior Declarations clearly describe the continuing problems associated with *physical locks* that are solved by the claimed invention and ***not*** solved by the prior art. If the prior art is an actual solution to the same problem, then one should ask why cable theft still occurring at such an alarming rate with the *physical locks*?

The Examiner asserts that disclosure of various physical lock and key mechanisms for securing a lockbox solves the same problem as the present invention. *See* Action at pages 2-3. In contrast, the Prior Declarations provide evidence that physical lock and key mechanisms as described in the cited prior art *fail* to prevent unauthorized access to the lockbox. Specifically, the Prior Declarations state that legacy lockboxes fail to prevent theft because (1) the legacy lockboxes are physically compromised by unauthorized parties; (2) the legacy lockboxes are accidentally left open by authorized personnel and then subsequently accessed by the unauthorized parties; and (3) keyed locks of legacy lockboxes are easily duplicated, allowing former contractors and employees to have unauthorized access. *See* Shugarman Declaration, item 11; Moel Declaration, item 12; Paul Declaration, items 12; Wolsiffer Declaration, item 16. The Examiner has failed to provide any

evidence whatsoever regarding how the cited prior art addresses each of the aforementioned problems of legacy lockboxes.

In fact, the prior art references relied upon by the Examiner all disclose locking *mechanisms* that are opened by *physical* keys. *See* Christatos, FIG. 2 and column 4 at lines 48-55; Voegeli, FIG. 7 and column 2 at lines 42-45; Masters, FIG. 4 and column 4 at lines 20-27. Thus, the cited prior art cannot solve, at a minimum, the aforementioned problems of (1) accidental failures to secure the legacy lockboxes allowing unauthorized access and (2) duplicate keys allowing former contractors and employees to have unauthorized access.

Based on the above, Appellant respectfully asserts that the Examiner has failed to properly demonstrate that the rebuttal evidence is insufficient to establish a long-felt need and failure of others.

The Examiner's contentions do not support the rejection under 35 U.S.C. § 103

MPEP § 716.01(d) states that "[a]ll of the competent rebuttal evidence taken as a whole should be weighed against the evidence supporting the prima facie case [of obviousness]." As discussed above, the Examiner has failed to properly demonstrate that the rebuttal evidence is insufficient to establish a long-felt need and failure of others. Specifically, the Examiner has failed to evaluate the rebuttal evidence in view of the prima facie case of obviousness. *See* MPEP § 716.01(d) ("Facts established by rebuttal evidence must be evaluated along with the facts on which the conclusion of a prima facie case was reached"). Thus, Appellant respectfully asserts that the Examiner has failed to properly consider the rebuttal evidence and that his contentions do not support the rejection of claim 1 under 35 U.S.C. § 103.

Summary

Based on the above reasons, the Examiner has failed to sufficiently establish a *prima facie* case of obviousness to reject claim 1 in view of Wheeler in view of Christatos further in view of Vitale further in view of Kamiya. Moreover, because the Examiner has failed to produce a *prima facie* case of obviousness, the Appellant is under no obligation to submit evidence of nonobviousness. *See* MPEP § 2142.

B. Claims 19, 21-23, and 25-26 are patentable over Wheeler in view of Christatos further in view of Kamiya

In this Appeal, Appellant further argues that claims 19, 21-23, and 25-26 are patentable over Wheeler in view of Christatos further in view of Kamiya for at least the reasons below. Independent claim 19 is representative of claims 21-23, and 25-26.

As described above and for at least the same reasons as independent claim 1, the Examiner has failed to properly weigh the rebuttal evidence against the *prima facie* case of obviousness with respect to claim 19. In view of this, the Examiner has failed to sufficiently establish a *prima facie* case of obviousness to reject claim 19 in view of Wheeler in view of Christatos further in view of Kamiya. Moreover, because the Examiner has failed to produce a *prima facie* case of obviousness, the Appellant is under no obligation to submit evidence of nonobviousness. *See* MPEP § 2142.

C. Claim 8 is patentable over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Harold

In this Appeal, Appellant further argues that claim 8 is patentable over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Harold for at least the reasons below.

As described above and for at least the same reasons as independent claim 1, the Examiner has failed to properly weigh the rebuttal evidence against the *prima facie* case of obviousness with respect to claim 8. In view of this, the Examiner has failed to sufficiently establish a *prima facie* case of obviousness to reject claim 8 in view of Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Harold. Moreover, because the Examiner has failed to produce a *prima facie* case of obviousness, the Appellant is under no obligation to submit evidence of nonobviousness. *See* MPEP § 2142.

D. Claims 11, 24, 31, and 32 are patentable over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Naidoo

In this Appeal, Appellant further argues that claims 11, 24, 31, and 32 are patentable over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Naidoo for at least the reasons below. Dependent claim 11 is representative of claims 24, 31, and 32.

As described above and for at least the same reasons as independent claim 1, the Examiner has failed to properly weigh the rebuttal evidence against the *prima facie* case of obviousness with respect to claim 11. In view of this, the Examiner has failed to sufficiently establish a *prima facie* case of obviousness to reject claim 11 in view of Wheeler in view of Christatos further in view

Vitale in view of Kamiya further in view of Naidoo. Moreover, because the Examiner has failed to produce a *prima facie* case of obviousness, the Appellant is under no obligation to submit evidence of nonobviousness. *See* MPEP § 2142.

E. Claims 14, 27, and 34 are patentable over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Rowe

In this Appeal, Appellant further argues that claims 14, 27, and 34 are patentable over Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Rowe for at least the reasons below. Dependent claim 14 is representative of claims 27 and 34.

As described above and for at least the same reasons as independent claim 1, the Examiner has failed to properly weigh the rebuttal evidence against the *prima facie* case of obviousness with respect to claim 14. In view of this, the Examiner has failed to sufficiently establish a *prima facie* case of obviousness to reject claim 14 in view of Wheeler in view of Christatos further in view Vitale in view of Kamiya further in view of Rowe. Moreover, because the Examiner has failed to produce a *prima facie* case of obviousness, the Appellant is under no obligation to submit evidence of nonobviousness. *See* MPEP § 2142.

VIII. Conclusion

In view of the above, as the Examiner has failed to show sufficient evidence for a *prima facie* case of obviousness, the Appellant has carried his burden in showing that the Examiner erred in rejecting claims 1, 5-9, and 32-34 under 35 U.S.C. §103. *In re Kahn*, 441 F.3d 977, 985-986 (Fed. Cir. 2006) ("On appeal to the Board, an appellant can overcome a rejection by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness") (emphasis in original) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)); *see also* 37 C.F.R. § 41.37(c)(1)(vii). Favorable consideration of the present application is respectfully requested.

Dated: February 1, 2011

Respectfully submitted,

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CLAIMS APPENDIX

Claims Involved in the Appeal of Application Serial No. 10/656,687

1. A cable distribution box, comprising:

an authentication device configured to obtain authentication information from an authentication medium;

an electronic access control system configured to be operatively connected to an access administration system over at least a portion of a cable network infrastructure, wherein the electronic access control system is configured to grant access to the cable distribution box upon receiving verification of the authentication information, and

a lock operatively connected to the electronic access control system, wherein the lock is configured to receive a signal from the electronic access control system to electronically unlock the cable distribution box when access to the cable distribution box is granted,

wherein the authentication device, the electronic access control system, and the lock are configured to be solely powered using current obtained from a coaxial cable line operatively connected to the cable distribution box.

2. (Cancelled)

3. The cable distribution box of claim 1, further comprising:

a communication device operatively connected to the electronic access control system and configured to provide communication services between the electronic access control system and the access administration system.

4. The cable distribution box of claim 3, wherein the communication device is at least one selected from the group consisting of a communication adapter and a cable modem.

5. The cable distribution box of claim 1, wherein the access administration system comprises at least one selected from the group consisting of access administration hardware, access administration software, and firmware.

6. The cable distribution box of claim 1, wherein the electronic access control system comprises at least one selected from the group consisting of access control software, access control hardware, and firmware.

7. The cable distribution box of claim 1, wherein the authentication device is a card reader and the authentication medium is an access card.

8. The cable distribution box of claim 7, wherein the access administration system includes functionality to disable the access card.

9. The cable distribution box of claim 1, wherein the access administration system is configured to collect the authentication information.

10. The cable distribution box of claim 1, wherein the access administration system is configured to generate a work log from the authentication information and the work log data.

11. The cable distribution box of claim 10, wherein the access administration system includes functionality to analyze the work log to determine whether a response is required and functionality to send an alert to an appropriate entity if the response is required.

12. The cable distribution box of claim 1, wherein the access administration system is configured to verify the authentication information using a request-response authentication method.

13. The cable distribution box of claim 1, wherein the access administration system is configured to verify the authentication information using a challenge-response authentication method.

14. The cable distribution box of claim 1, wherein communication between the authentication device and the electronic access control system is encrypted.

15. The cable distribution box of claim 1, wherein communication between the access administration system and the electronic access control system is encrypted.

16. (Cancelled)

17. (Cancelled)

18. The cable distribution box of claim 3, wherein the communication device is configured to be solely powered using current obtained from the coaxial cable line operatively connected to the cable distribution box.

19. A cable distribution box, comprising:

an authentication device configured to obtain authentication information from an authentication medium;

a memory operatively connected to the authentication device comprising verification information and work log data;

an electronic access control system operatively connected to the authentication device and the memory, wherein the electronic access control system is configured to grant access to the cable distribution box based on the verification information and the authentication information; and

a lock operatively connected to the electronic access control system, wherein the lock is configured to receive a signal from the electronic access control system to electronically unlock the cable distribution box when access to the cable distribution box is granted,

wherein the authentication device, the memory, the electronic access control system, and the lock are configured to be solely powered using current obtained from a coaxial cable line operatively connected to the cable distribution box.

20. (Cancelled)

21. The cable distribution box of claim 19, wherein the authentication device is a card reader and the authentication medium is an access card.

22. The cable distribution box of claim 19, wherein the electronic access control system is configured to collect the authentication information.

23. The cable distribution box of claim 22, wherein the electronic access control system is configured to generate a work log from the authentication information and the work log data.

24. The cable distribution box of claim 23, wherein the electronic access control system includes functionality to analyze the work log to determine whether a response is required and functionality to send an alert to an appropriate entity if the response is required.

25. The cable distribution box of claim 19, wherein the electronic access control system is configured to verify the authentication information using a request-response authentication method.

26. The cable distribution box of claim 19, wherein the electronic access control system is configured to verify the authentication information using a challenge-response authentication method.

27. The cable distribution box of claim 19, wherein communication between the authentication device and the electronic access control system is encrypted.

28. (Cancelled)

29. (Cancelled)

30. A method for accessing a cable distribution box, comprising:
obtaining authentication information from an authentication medium;
sending an access request over at least a portion of a cable network infrastructure to an access administration system using current obtained solely from a coaxial cable line

operatively connected to the cable distribution box, wherein the access request comprises the authentication information;

verifying the access request by the access administration system;

generating a work log associated with the access request; and

granting access to the cable distribution box when the access request is verified,

wherein granting access to the cable distribution box comprises electronically unlocking the cable distribution box using current obtained solely from the coaxial cable line.

31. The method of claim 30, further comprising:
uploading the work log to the access administration system;
analyzing the work log to determine whether a response is required; and
sending an alert to an appropriate entity if the response is required.

32. The method of claim 30, further comprising:
continuously monitoring the cable distribution box to determine the status.

33. The method of claim 30, further comprising:
unlocking the cable distribution box when access has been granted.

34. The method of claim 30, wherein the access request is encrypted.

35. The method of claim 30, wherein the access administration system comprises at least one selected from the group consisting of access administration hardware, access administration software, and firmware.

36. The method of claim 30, wherein access to the cable distribution box is granted by an access control system.

37. The method of claim 36, wherein the access control system comprises at least one selected from the group consisting of access control software, access control hardware, and firmware.

38. The method of claim 36, wherein the access control system is powered using current obtained from the coaxial cable line operatively connected to the cable distribution box.

39. An apparatus for accessing a cable distribution box, comprising:

means for obtaining authentication information from an authentication medium;

means for sending an access request over at least a portion of a cable network infrastructure to an access administration system using current solely obtained from a coaxial cable line operatively connected to the cable distribution box, wherein the access request comprises the authentication information;

means for verifying the access request;

means for generating a work log associated with the access request; and

means for electronically unlocking the cable distribution box when the access request is verified using current solely obtained from the coaxial cable line.

RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.

EVIDENCE APPENDIX

A copy of evidence pursuant to §§ 1.130, 1.131, or 1.132 and/or evidence entered by or relied upon by the Examiner that is relevant to this appeal is attached hereto. The Appellant previously submitted three separate 37 C.F.R. § 1.132 Declarations: (a) Declaration of Robert Shugarman, (b) Declaration of Robert V. Moel, and (c) Declaration of Terry Paul for the Examiner's consideration on October 15, 2009. Further, the Appellant submitted an additional 37 C.F.R. § 1.132 Declaration for James A. Wolsiffer for the Examiner's consideration on July 9, 2010. The declarations have been entered and reviewed by the Examiner, as such, they are part of the file wrapper for the referenced application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
James Alfred Thompson

Confirmation No.: 8553

Application No.: 10/656,687

Art Unit: 2423

Filed: September 5, 2003

Examiner: J. O. Mendoza

For: CABLE NETWORK ACCESS CONTROL SOLUTION

DECLARATION OF ROBERT SHUGARMAN

1. My name is Robert Shugarman. I am over 18 years of age, of sound mind, and capable of making this declaration.

2. I am employed by Time Warner Cable ("TWC"), where I hold the position of Texas Region Vice President, Construction and Design.

3. For the past 26 years, I have been employed in the Telecommunications Industry.

4. During the past 26 years I have held both technical positions and management positions.

5. TWC has currently deployed thousands of cable distribution boxes in the multi-dwelling unit (MDU) environment in the Texas Region, such cable distribution boxes are hereafter referred to as "Legacy Cable Distribution Boxes."

6. The Legacy Cable Distribution Boxes are secured by using hinged lids and locking mechanisms to secure the Legacy Cable Distribution Boxes. Accordingly, Cable Company Contractors and Employees require a physical key to unlock the Legacy Cable Distribution Boxes.

7. The Legacy Cable Distribution Boxes are routinely subjected to in-person audits to determine whether Cable Theft has occurred. The in-person audits are expensive and require large number of auditors to perform the audits.

8. The Legacy Cable Distribution Boxes do not include any mechanism to remotely authorize access to a Cable Company Contract or Employee.

9. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely unlocked.

10. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely audited.

11. Cable Theft in the MDU environment has been a problem (and continues to be a problem) since at least 1984. In particular, cable theft in the Legacy Cable Distribution Boxes currently occurs in at least the following manner:

    a. Legacy Cable Distribution Boxes were physically compromised by unauthorized parties breaking into the Legacy Cable Distribution Boxes. The unauthorized parties subsequently connected non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

    b. Legacy Cable Distribution Boxes were left open by Cable Company Contractors and Employees. Unauthorized parties subsequently connected non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

    c. Keyed locks used to secure the Legacy Cable Distribution Boxes are easily duplicated (or readily available) and, accordingly, available for current and former Cable Company Contractors and Employees to access Legacy Cable Distribution Boxes and subsequently connected

non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

12. Prior to learning about the Cable Distribution Boxes developed by Remote Security Systems, LLC (hereafter RSS Cable Distribution Boxes), I was not aware of any Cable Distribution Box technology to address Cable Theft described in paragraph 11.

13. Since 2006, the Texas Region of Time Warner Cable has purchased 225 and deployed 42 RR Cable Distribution Boxes from in the MDU environment, thereby replacing the previously installed cable distribution boxes.

14. The RSS Cable Distribution Boxes enable TWC to address the problems of Cable Theft in the MDU environment by:

a. Providing a mechanism to remotely authorize access to the RSS Cable Distribution Box. This mechanism enables fine-grained control of who can access a particular the RSS Cable Distribution Box including removing access to former Cable Company Employees and Contractors.

b. Providing a mechanism to enable unlocking on the RSS Cable Distribution Boxes after remote authorization has been granted.

c. Tracking access to the RSS Cable Distribution Boxes using a work log, which may be remotely accessed.

15. To date, there have been no incidents of Cable Theft in MDU environments in which the RSS Cable Distribution Boxes have been deployed.

16. The authentication device, the memory, the electronic access control system, and the lock in the cable RSS Cable Distribution Boxes are solely powered using power from the coaxial cable line. This functionality is considered critical for TWC because it enables TWC to

easily deploy with the RSS Cable Distribution Boxes as there is no requirement for additional power to be supplied to the RSS Cable Distribution Boxes.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 28 day of August 2009

Robert Shugarman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: James Alfred Thompson	Confirmation No.: 8553
Application No.: 10/656,687	Art Unit: 2423
Filed: September 5, 2003	Examiner: J. O. Mendoza
For: CABLE NETWORK ACCESS CONTROL SOLUTION	

DECLARATION OF ROBERT V. MOEL

1. My name is Robert V. Moel. I am over 18 years of age, of sound mind, and capable of making this declaration.

2. I am employed by Time Warner Cable ("TWC"), where I hold the position of Regional Vice President Operations, North Texas Division.

3. I am a licensed Professional Engineer.

4. For the past 30 years, I have been employed in the Cable Television Industry.

5. During the past 30 years I have held both technical positions and management positions.

6. TWC has currently deployed thousands of cable distribution boxes in the multi-dwelling unit (MDU) environment in the Texas Region, such cable distribution boxes are hereafter referred to as "Legacy Cable Distribution Boxes."

7. The Legacy Cable Distribution Boxes are secured by using mechanical locking mechanisms to secure the Legacy Cable Distribution Boxes. Accordingly, Cable Company Contractors and Employees require a physical key to unlock the Legacy Cable Distribution Boxes.

8. The Legacy Cable Distribution Boxes are routinely subjected to in-person audits to determine whether Cable Theft has occurred.

9. The Legacy Cable Distribution Boxes do not include any mechanism to remotely authorize access to a Cable Company Employee or Contractor.

10. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely unlocked.

11. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely audited.

12. Cable Theft in the MDU environment has been a problem (and continues to be a problem) since at least 1984. In particular, cable theft in the Legacy Cable Distribution Boxes currently occurs in at least the following manner:

    a. Legacy Cable Distribution Boxes are physically compromised by unauthorized parties breaking into the Legacy Cable Distribution Boxes. The unauthorized parties subsequently connect non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

    b. Legacy Cable Distribution Boxes are left open by Cable Company Contractors and Employees. Unauthorized parties subsequently connect non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

    c. Keyed locks used to secure the Legacy Cable Distribution Boxes are easily duplicated (or readily available) and, accordingly, available for current and former Cable Company Contractors and Employees to access Legacy Cable Distribution Boxes. Non-customers are subsequently connected, which enables them to receive cable service from the Legacy Cable Distribution Box.

13. The fundamental design and operation of the Legacy Cable Distribution Boxes described in paragraphs 7-11 has remained unchanged since at least 1985.

14. Prior to learning about the Cable Distribution Boxes developed by Remote Security Systems, LLC (hereafter RSS Cable Distribution Boxes), I was not aware of any Cable Distribution Box technology to effectively address Cable Theft described in paragraph 12.

15. Since 2007, the Texas Region of Time Warner Cable has purchased 225 and deployed 42 RR Cable Distribution Boxes from in the MDU environment, thereby replacing the previously installed cable distribution boxes.

16. The RSS Cable Distribution Boxes enable TWC to address the problems of Cable Theft in the MDU environment by:

    a. Providing a mechanism to remotely authorize access to the RSS Cable Distribution Box. This mechanism enables complete control of who can access a particular RSS Cable Distribution Box including removing access to former Cable Company Employees and Contractors.

    b. Providing a mechanism to enable unlocking the RSS Cable Distribution Boxes after remote authorization has been granted.

    c. Tracking access to the RSS Cable Distribution Boxes using a work log, which may be remotely accessed.

    d. Eliminating the cost of rekeying the locks on Legacy Cable Distribution Boxes when a key is lost or a Cable Company Employee or Contractor is terminated.

17. The authentication device, the memory, the electronic access control system, and the lock in RSS Cable Distribution Boxes are solely powered using power from the coaxial cable. This functionality is considered critical for TWC because it enables TWC to easily deploy the RSS Cable Distribution Boxes as there is no requirement for additional power to be supplied to the RSS Cable Distribution Boxes.

I hereby declare that all statements made herein are of my own knowledge and are true, and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 16 day of September 2009

Robert V. Moel

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: James Alfred Thompson	Confirmation No.: 8553
Application No.: 10/656,687	Art Unit: 2423
Filed: September 5, 2003	Examiner: J. O. Mendoza
For: CABLE NETWORK ACCESS CONTROL SOLUTION	

DECLARATION OF TERRY PAUL

1. My name is Terry L. Paul. I am over 18 years of age, of sound mind, and capable of making this declaration.

2. I am employed by Cox Communications, Inc. ("Cox"), where I hold the position of Loss Prevention & Quality Assurance Supervisor.

3. For the past 15 years, I have been employed in the cable industry.

4. For the past 10 years, I have been working on Loss Prevention (i.e., prevention of Cable Theft) in Las Vegas, Nevada, USA.

5. Cox has currently deployed thousands of cable distribution boxes in the multi-dwelling unit (MDU) environment in the United States, such cable distribution boxes are hereafter referred to as "Legacy Cable Distribution Boxes."

6. The Legacy Cable Distribution Boxes are secured by traditional mechanical locks and keys. Accordingly, Cable Company Contractors and Employees require a physical key to unlock the Legacy Cable Distribution Boxes.

7. The Legacy Cable Distribution Boxes are routinely subjected to in-person audits to determine whether Cable Theft has occurred. The in-person audits are expensive and require a large number of auditors and hours of labor to perform the audits.

8. The Legacy Cable Distribution Boxes do not include any mechanism to remotely authorize access to a Cable Company Contract or Employee.

9. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely unlocked.

10. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely audited.

11. Cable Theft in the MDU environment has been a problem (and continues to be a problem) throughout the United States for as long as I have been employed by Cox Communications. In particular, cable theft in the Legacy Cable Distribution Boxes currently occurs in at least the following manner:

    a. Legacy Cable Distribution Boxes are physically compromised by unauthorized parties breaking into the Legacy Cable Distribution Boxes. The unauthorized parties subsequently connect non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

    b. Legacy Cable Distribution Boxes are left open by Cable Company Contractors and Employees. Unauthorized parties subsequently connect non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

    c. Keyed locks used to secure the Legacy Cable Distribution Boxes are easily duplicated (or readily available) and, accordingly, available for current and former Cable Company Contractors and Employees to access Legacy Cable Distribution Boxes. Non-customers are

subsequently connected, which enables them to receive cable service from the Legacy Cable Distribution Box.

12. The fundamental design and operation of the Legacy Cable Distribution Boxes described in paragraphs 8-10 has remained unchanged for at least 15 years.

13. Cox is currently attempting to reduce Cable Theft, which is currently 16.67% of all current MDUs where Cox provides cable service. Said another way, only 83.33% of all cable service connections in MDUs in the Cox Network are authorized connections.

14. Cox, in the past 10 years, has unsuccessfully attempted to stop Cable Theft by:

a. Changing the lock-key mechanisms on the Legacy Cable Distribution Boxes

b. Increasing the physical security features on the Legacy Cable Distribution Boxes

c. Increasing the number of Audit Personnel involved in auditing the deployed Legacy Cable Distribution Boxes

15. Prior to learning about the Cable Distribution Boxes developed by Remote Security Systems, LLC (hereafter RSS Cable Distribution Boxes), I was not aware of any Cable Distribution Box technology to effectively address Cable Theft described in paragraph 11.

16. Since 2008, Cox has purchased and deployed one RSS Cable Distribution Box in the MDU environment, thereby replacing the previously installed cable distribution box.

17. The RSS Cable Distribution Boxes enable Cox to address the problems of Cable Theft in the MDU environment by:

a. Providing a mechanism to remotely authorize access to the RSS Cable Distribution Box. This mechanism enables fine-grained control of who can access a particular RSS Cable Distribution Box including

removing access to former Cable Company Employees and Contractors.

b. Providing a mechanism to enable unlocking of the RSS Cable Distribution Boxes after remote authorization has been granted.

c. Tracking access to the RSS Cable Distribution Boxes using a work log, which may be remotely accessed.

d. Eliminating the cost of replacing locks on Legacy Cable Distribution Boxes when a lock is damaged or removed.

e. Incorporating an internal locking mechanism, which removes external failure points of the locking mechanism used to secure the RSS Cable Distribution Boxes.

18. To date, I am not aware of any incidents of Cable Theft in the MDU environment in which the RSS Cable Distribution Box has been deployed. Further, based on the effectiveness of the RSS Cable Distribution Box in preventing Cable Theft, Cox is presently in the process of identifying 20-30 high Cable Theft locations in which to deploy RSS Cable Distribution Boxes.

19. The authentication device, the memory, the electronic access control system, and the lock in the RSS Cable Distribution Boxes are solely powered using power from the coaxial cable line. This functionality is considered critical for Cox because it enables Cox to easily deploy the RSS Cable Distribution Boxes as there is no requirement for additional power to be supplied to the RSS Cable Distribution Boxes.

I hereby declare that all statements made herein are of my own knowledge, are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 14 day of OCT 2009

Terry L. Paul

Application No.: 10/656,687 Docket No.: 17065/004001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
James Alfred Thompson

Confirmation No.: 8553

Application No.: 10/656,687

Art Unit: 2423

Filed: September 5, 2003

Examiner: J. O. Mendoza

For: CABLE NETWORK ACCESS CONTROL SOLUTION

DECLARATION OF JAMES A. WOLSIFFER

1. My name is James A. Wolsiffer. I am over 18 years of age, of sound mind, and capable of making this declaration.

2. I am employed by Buckeye CableSystem ("Buckeye"), where I hold the position of Director of Technical Operations.

3. For the past 31 years, I have been employed by Buckeye.

4. During the past 31 years I have held both technical positions and management positions such as: Service Technician, Trunk Technician, Special Projects Supervisor, Construction Supervisor, Technical Operations Supervisor, Technical Operations Manager, and Director of Technical Operations.

5. I am a certified Master Technician, a certified Master Technician on HFC Networks, and a member of the Society of Telecommunications Engineers (SCTE).

6. I hold an ASEE in Electrical Engineering from Owens College.

7. I serve on the Toledo Public Schools Telecommunications Board and the Owens College Engineering Advisory Board.

8. Buckeye has currently deployed thousands of cable distribution boxes in the multi-dwelling unit (MDU) environment in the United States. such cable distribution boxes are hereafter referred to as "Legacy Cable Distribution Boxes."

9. The Legacy Cable Distribution Boxes are secured by traditional mechanical locks and keys. Accordingly, Cable Company Contractors and Employees require a physical key to unlock the Legacy Cable Distribution Boxes.

10. The Legacy Cable Distribution Boxes are routinely subjected to in-person audits to determine whether Cable Theft has occurred. The in-person audits are expensive and have proven to be ineffective in reducing theft of service.

11. The Legacy Cable Distribution Boxes do not include any mechanism to remotely authorize access to a Cable Company Contract or Employee.

12. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely unlocked.

13. The Legacy Cable Distribution Boxes do not include any mechanism to enable them to be remotely audited.

14. I have reviewed Cable Distribution Boxes provided by a variety of vendors over the last 31 years. All of the reviewed Cable Distribution Boxes focused on improving the strength or design of the metal lockbox and mechanical lock on the Cable Distribution Boxes. None of the Cable Distribution Boxes included any functionality to (i) enable remote unlocking or (ii) enable remote auditing.

15. The fundamental design and operation of the Legacy Cable Distribution Boxes described in paragraphs 8-13 has remained unchanged since at least 1980.

16. Cable Theft in the MDU environment has been a problem (and continues to be a problem) since at least 1980. In particular, cable theft in the Legacy Cable Distribution Boxes currently occurs in at least the following manner:

a. Legacy Cable Distribution Boxes are physically compromised by unauthorized parties breaking into the Legacy Cable Distribution Boxes. The unauthorized parties subsequently connect non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

b. Legacy Cable Distribution Boxes are left open by Cable Company Contractors and Employees. Unauthorized parties subsequently connect non-customers to enable them to receive cable service from the Legacy Cable Distribution Box.

c. Keyed locks used to secure the Legacy Cable Distribution Boxes are easily duplicated (or readily available) and, accordingly, available for current and former Cable Company Contractors and Employees to access Legacy Cable Distribution Boxes. Non-customers are subsequently connected, which enables them to receive cable service from the Legacy Cable Distribution Box.

17. Cable Theft has been occurring in the Cable Television Industry for as long as we have been involved in servicing MDU. The Cable Thefts have resulted in damage to our equipment and facilities and loss of revenue. The Cable Theft in Legacy Cable Distribution Boxes is also detrimental to our customers due to problems caused as a result of improper hook ups made to the Buckeye Network. In severe cases these problems can cause full interruption of reception of our signals, transmission of signals from our customers to our head end and loss of data and voice (phone) services to our customers.

18. Prior to learning about the Cable Distribution Boxes developed by Remote Security Systems, LLC (hereafter RSS Cable Distribution Boxes),I was not aware of any Cable Distribution Box technology to effectively address Cable Theft described in paragraphs 15-16.

19. In April 2009, Buckeye deployed 13 RSS Cable Distribution Boxes in the MDU environment, thereby replacing the previously installed Legacy Cable Distribution Boxes. The RSS Cable Distribution Boxes are located in 13 high Cable Theft areas.

20. The RSS Cable Distribution Boxes enable Buckeye to address the problems of Cable Theft in the MDU environment by:

    a. Providing a mechanism to remotely authorize access to the RSS Cable Distribution Box. This mechanism enables fine-grained control of who can access a particular RSS Cable Distribution Box including removing access to former Cable Company Employees and Contractors.

    b. Providing a mechanism to enable unlocking the RSS Cable Distribution Boxes after remote authorization has been granted.

    c. Tracking access to the RSS Cable Distribution Boxes using a work log, which may be remotely accessed.

    d. Eliminating the cost of replacing the locks on Legacy Cable Distribution Boxes when a key is lost or a Cable Company Employee or Contractor is terminated.

    e. Incorporating an internal locking mechanism, which removes external failure points of the locking mechanism used to secure the Legacy Cable Distribution Boxes.

21. Before we installed the RSS Cable Distribution Boxes as discussed in paragraph 18, Buckeye experienced several thefts in the prior 12 months at each of the 13 locations. After installation of the RSS Cable Distribution Boxes, I am not aware of any incidents of Cable Theft in MDU environments in which the RSS Cable Distribution Boxes are deployed.

22. The authentication device, the memory, the electronic access control system, and the lock in the cable RSS Cable Distribution Boxes are solely powered using power from the coaxial cable line. This functionality is considered critical for Buckeye because it enables Buckeye to easily deploy the RSS Cable Distribution Boxes as there is no requirement for additional power to be supplied to the RSS Cable Distribution Boxes.

I hereby declare that all statements made herein are of my own knowledge, are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 1st day of October 2009

James A. Wolsiffer